The shifts in basic wage "principles"

For almost 60 years a basic wage has been prescribed by a Commonwealth Conciliation and Arbitration tribunal. An analysis of the decisions shows a remarkable number and variety of reasons given by the tribunal in support of its decisions.

It should, therefore, not have caused surprise among trade unionists when the majority decision in the national wages case of 1965 departed completely from the "principles" adopted in 1961 and reaffirmed in 1964.

It is now history that last year the trade unions applied for an increase of 12/- in the basic wage and were awarded no increase in the wage but an increase averaging 5/- to 6/- in margins.

Ever since a basic wage was fixed at 7/- a day in 1907 by the Commonwealth Court of Conciliation and Arbitration and "principles" adopted in fixing wages, these "principles" have been ignored or set aside in favor of different and what appear to be more expedient principles.

Over a period of 60 years it has always been the wage earner who has suffered because of changing "principles" and inconsistent decisions.

In 1907, Mr. Justice Higgins fixed 7/- per day as a wage which would provide a condition of "frugal comfort" but "would provide no margin for luxury or amusements; indeed, for any exceptional expenditure the family had to suffer in necessaries."

One would have thought that such a minimum standard would have been adjusted from time to time to
compensate wage earners for rising costs, but it was not until 1913, by which time prices had increased by 23 per cent since 1907, that the Court increased the wage to 8/- a day. On the subject of “what the advance in the basic wage should be”, the President of the Court said “in such a matter I have felt that, if I err, I should err on the side of delay and caution”.

This “principle” was undoubtedly carried out with the utmost efficiency so that by 1919 the then Prime Minister of Australia, Mr. W. M. Hughes, in an election speech, said “If we are to have industrial peace we must be prepared to pay the price, and that price is justice to the worker. Nothing less will serve. We have long ago adopted in Australia the principles of compulsory arbitration for the settlement of industrial disputes and of the minimum wage. . . Once it is admitted that it is in the interest of the community that such a wage should be paid as will enable a man to marry and bring up children in ‘decent, wholesome conditions— and that point has been settled long ago—it seems obvious that we must devise better machinery for insuring the payment of such a wage than at present exists. Means must be found which will ensure that the minimum wage shall be adjusted automatically or almost automatically, with the cost of living, so that within the limits of the minimum wage at least the sovereign shall always purchase the same amount of the necessaries of life.

“The Government is, therefore, appointing a Royal Commission to inquire into the cost of living in relation to the minimum of the basic wage and how the basic wage may be adjusted to the present purchasing power of the sovereign, and the best means when once so adjusted of automatically adjusting itself to the rise and fall of the sovereign. The Government will at the earliest date possible create effective machinery to give effect to these principles. Labor is entitled to a fair share of the wealth it produces.”

The Royal Commission held its inquiry and in 1920 found that the cost of a reasonable standard of comfort for a man, wife and three children “below which no employee should be asked to live” was £5/16/- a week. At that time the average wage paid to all adult employees in Melbourne was £4/3/1 a week.
The findings of the Royal Commission were never implemented. The President of the Commonwealth Court described the Commission's £5/16/- cost of living figure as "this so-called basic wage of the Commission which is not a true basic wage but a will-of-the-wisp that will lead them into the ditch".

The Court continued to relate its basic wage to the 7/- a day standard fixed in 1907.

Then came the years of economic difficulty, the depression years of 1930's. No longer was the "frugal comfort" of 1907 considered necessary, wages were cut in 1930 and early 1931 by 10 per cent, the Court announcing that "the decline in the national income and the reduction in the spending power due to cessation of loans, make necessary a reduction in the basic wage".

The Commonwealth Attorney-General immediately applied to the Court for a three months suspension of the Court's orders reducing wages on the ground that "the Government, in consultation with banking authorities, is engaged in the formulation of a scheme to ensure that the burden of loss arising from the decline in national income and spending power shall be equitably distributed over all sections of the community, and that the immediate enforcement of the Court's order would embarrass the Government in completing its proposals for economic rehabilitation".

The Court dismissed the application and in doing so declared: "It is impossible for a Court however desirous it may be to assist a Government faced with such heavy responsibility, to so nullify its considered opinion that whatever may be done to meet the present crisis there is no escape from a reduction of at least 10 per cent in wage standards".

Applications by the trade unions for restoration of the 10 per cent reduction made in 1932 and 1933 were rejected by the Court, notwithstanding it finding in 1933 that "the wage-earners appeared to have suffered recently rather more than the 10 per cent reduction intended by the Court and we think this should be remedied".

A similar application was made by the unions in 1934. This too was unsuccessful, but the Court fixed the basic wage on a new basis taking into account, among other factors, "the economic position of the Commonwealth".

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The wage-earners' 1907 standard of "frugal comfort" was a principle never again to be followed, the Court conveniently observing: "Hitherto Australian Courts have substantially assessed their basic or living wage on the cost of living of a family unit according to the standard which the tribunal was either directed by statute to adopt or itself thought fit to adopt. In the long run, if due consideration be given to economic conditions, this process will probably give a resulting basic wage in amount fairly close to that which would be indicated by a method founded on national productivity".

In 1937, a new principle was born. The Court added a "prosperity loading" to the basic wage, 6/- a week in N.S.W., Victoria and Queensland, and 4/- a week in South Australia, Western Australia and Tasmania.

In 1939 the trade unions applied for a further increase in the basic wage, arguing that since 1937 "there has been a further increase in the general prosperity of the Commonwealth which justifies a further increase in the basic wage". The Court did not give a decision until February, 1941, when the unions' case was rejected on the grounds that "marshalling of all resources for war purposes is the first matter which this Court must consider". This meant prosperity for industry and the employers, wage-pegging and rationing for the employees.

It was not until 1946 that the Court again considered the level of the basic wage. An "interim" increase of 7/- a week was granted. No detailed statement of reasons was given by the Court but the following statement was made in the course of the short judgment issued.

"During the protracted hearing of the earlier stages of the Standard Hours case, from accumulated indications which forced themselves upon the attention of the Court from many sources, the necessity of an early consideration by the Court of the exercise of the power conferred upon it became increasingly apparent. Had the Court failed to give heed to such indications the public interest would have suffered and it would have failed in its duty to the community and in performing the functions allotted to it as part of the national plan of economic organisation in the early post-war period".

The statement of the Court did not elaborate on the "accumulated indications which forced themselves upon
the attention of the Court from many sources”, but the following extracts from the Amalgamated Engineering Union monthly journals covering the period possibly throw some light upon the situation:

“In Melbourne, on Sunday, October 20, a mass meeting of Tramways Union members decided to cease work until their claims relative to reduced hours, increased wages rates, penalty rates, shift rates, etc., were granted. They were supported by members of the Australian Railways Union, with the result that on and from 20/10/46 a complete stoppage of all rail and tram transport had taken place. Members of the A.E.U. employed at Newport, Jolimont, Spotswood, North Melbourne loco and country sheds and workships have also ceased work in support.

“At the conclusion of the meeting members were joined in Collins Street by the locked-out members of the Federated Ironworkers’ Association and led by a red-robed Father Christmas and two bell-toppered workers carrying a banner inscribed ‘We’re Dreaming of a Black Christmas’, a march down Collins, Swanston and Flinders Streets to the Chamber of Manufacturers’ Building took place, where speakers voiced their opinions of the employers’ actions. It is estimated that 3,500 members are involved in the dispute.

“Our campaign and overtime embargo, in addition to the foundry workers’ claim for improved wages, the nine-day stoppage, etc., have all been instrumental in forcing the Arbitration Court to proclaim the 40-hour week principle and agree to an early hearing of the interim basic wage case.”

The next decision on the basic wage was delivered in October 1950 when an increase of £1 a week was awarded. A new principle was adopted by Judge Foster when in the course of his decision he said: “I have, as has appeared, very largely based my decision to grant basic wage increases upon the strong impression created in my mind by the evidence, figures and experience of the existence of a standard of living of the basic wage worker in Australia higher than the basic wage could buy today”...

“The result is that if the adult wage is to be fixed at as high a level as industry can sustain (and I feel
strongly that the Court should not enforce a settlement of a dispute at a lower figure) and as there is good evidence that industry is sustaining and has sustained these actual levels, then it would be safe for the Court to prescribe a sum as a basic wage that would give legal sanction to existing actual rates.

"Conscious that our task is the settlement of the dispute, I cannot see how an award fixing rates substantially lower than those actually being paid would settle the dispute. It would be unrealistic as to tend to bring the Court into contempt".

The period following the end of World War II was characterised by a large unsatisfied demand for labor. There were many more positions vacant than wage-earners seeking employment. Such a situation had not occurred in Australia since the exodus of labor from normal fields of employment to rush to the goldfields in the 1850's. Employers competed with one another for labor and militant unionism, taking advantage of the economic and industrial situation, successfully fought for rates of pay far in excess of legal minimums.

The judges were not "so unrealistic as to tend to bring the Court into contempt" and gave legal sanction to increased minimum rates, rates which were already being enjoyed by a large section of wage-earners.

£1 a week was by far the largest increase granted, and it is undoubtedly significant that the years 1949 and 1950 were years of tremendous industrial and trade union activity. Campaigns were waged in every state on the questions of civil liberties, the Crimes Act, wage rates and living standards generally.

On the question of the influence of above award payments and trade union wage campaigns on the Commonwealth and Arbitration Commission at the present time I quote without comment the following extracts from the 1965 national wage case judgments:

Kirby, C.P., President: "Radical changes should not be made in our award wage structure particularly in relation to the retention of the basic wage and margins as separate elements or in the hitherto accepted pattern of their treatment, particularly so far as timing is concerned, until
the Commission has a recognisable picture of the range and extent of over-award payments in the various industries. Without this picture it is difficult to have a proper understanding of the reasons behind their existence which reasons may vary in different industries or even in the same industry. The possession of such a picture and understanding would enable the Commission to make a considered decision as to whether the disparity between award wages and actual wages should be allowed to continue so far as the Commission’s policies are concerned or whether the Commission should by its prescriptions endeavour to make it progressively diminish."

Majority judgment, Gallagher J., Sweeney J., Nimmo J., Deputy Presidents: "It is clear that union reliance on over-award payments has proceeded by a series of steps—

1. The Commission in 1959 and 1963 attached some weight to over-award payments in determining the levels of award wages.

2. It is in the interests of unions to obtain over-award payments and rely upon them in a hearing before the Commission of a claim for award increases as evidence of capacity to pay.

3. Having so obtained award increases, the unions should seek to ensure that these increases should not be absorbed in previously won over-award payments, but should be added to them.

"It is clear that if, as has been the general position in recent years there was little or no absorption, the original over-award payments provided no evidence that there was capacity to pay, not only those over-award amounts themselves, but the award increases added to them. Our conclusion is that the Commission should not place any reliance upon over-award payments as evidence of capacity to pay award increases which are designed to be added to them. . .

"In one of the union documents placed before us by Mr. Robinson, 'the militant type of leadership' was contrasted with other kinds of union leadership. The 'militant' approach set out in the exhibits was based upon the view that the way to win a case before the Commission was, first to develop a major national propaganda campaign and make claims on every employer and seek to
obtain over-award payments by demands backed by the threat of strikes, which should if necessary be carried into action.

"Applications should then be made to the Commission to obtain recognition of the established fact. Ideally the period before and during the hearing of the application should be one in which many industrial disputes should take place, so providing, it was said, the main pressure on the Commission and determining the success of the union case.

"In the view expressed in these exhibits by the advocates of the 'militant type of leadership', the policy of other kinds of union leadership which favored arbitration without waging preliminary campaigns in the workshops was deplored, as it resulted in cases being confined solely to argument between the advocates of the unions and the employers.

The type of leadership which a particular union elects is a matter for it to decide, but we desire to make perfectly clear our conviction that the sound working of the Australian arbitration system can, on the one hand, only be hindered by resort to pressure and, on the other hand, helped by reliance upon argument."

However, the record shows conclusively that every "principle" adopted by the Court has shortly afterwards been rejected by that same Court and replaced by another, influenced to varying degrees by the numerous pressures and considerations briefly outlined above.

To what extent can reliance be placed on argument when there are no clearly definable principles (let alone principles acceptable to both sides) upon which such argument can be based?

It is therefore a matter of serious concern for unions to clarify and develop their own principles, and to ensure that the voice of their members for higher living standards and better conditions of employment is forthrightly expressed by resolutions, demonstrations and, on occasions, by stoppages in support of these principles and claims.